

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

VANESSA S. ALLEN, *on behalf of herself and  
all others similarly situated,*

Plaintiff,

v.

RICKENBACKER COLLECTION  
SERVICES,

Defendant.

Civil No. 09cv410-L (POR)

**ORDER REGULATING DISCOVERY  
AND OTHER PRETRIAL  
PROCEEDINGS**

On July 31, 2009, the Court held a Case Management Conference in this matter. Appearing before the Court were Joshua Swigart, Esq., counsel for Plaintiff; and Kevin Alexander, Esq., and Yuo-Fong Amato, Esq., counsel for Defendant. The case did not settle. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing, IT IS HEREBY ORDERED:

1. The parties shall file a class certification motion on or before **March 1, 2010**.
2. Any motion to join other parties, to amend the pleadings, or to file additional pleadings shall be filed on or before **October 5, 2009**.
3. On or before **November 3, 2009**, all parties shall exchange with all other parties a list of all expert witnesses expected to be called at trial. The parties must identify any person who may be used at trial to present evidence pursuant to Rules 702, 703 or 705 of the Fed. R. Evid. This requirement is not limited to retained experts. The list shall include the name, address, and phone number of the expert and a brief statement identifying the subject areas as to which the expert is

1 expected to testify. The list shall also include the normal rates the expert charges for deposition and  
2 trial testimony. On or before **November 16, 2009**, any party may supplement its designation in  
3 response to any other party's designation so long as that party has not previously retained an expert  
4 to testify on that subject.

5 4. Each expert witness designated by a party shall prepare a written report to be  
6 provided to all other parties no later than **May 14, 2010**, containing the information required by  
7 Federal Rule of Civil Procedure 26(a)(2)(A) and (B). This disclosure requirement applies to all  
8 persons retained or specially employed to provide expert testimony, or whose duties as an employee  
9 of the party regularly involve the giving of expert testimony.

10 *Except as specifically provided below, any party that fails to make these disclosures shall*  
11 *not, absent substantial justification, be permitted to use evidence or testimony not disclosed at any*  
12 *hearing or at the time of trial. In addition, the Court may impose sanctions as permitted by Federal*  
13 *Rule of Civil Procedure 37(c).*

14 5. Any party, through any expert designated, shall in accordance with Federal Rules of  
15 Civil Procedure 26(a)(2)(C) and 26(e), supplement any of its expert reports regarding evidence  
16 intended solely to contradict or rebut evidence on the same subject matter identified in an expert  
17 report submitted by another party. Any such supplemental reports are due on or before **May 28,**  
18 **2010.**

19 6. All discovery, except expert discovery, shall be completed on or before **May 30,**  
20 **2010.** "*Completed*" means that all discovery under Federal Rules of Civil Procedure 30-36 must be  
21 initiated a sufficient period of time in advance of the cut-off date, so *that it may be completed* by the  
22 cut-off date, taking into account the times for services, notice, and response as set forth in the  
23 Federal Rules of Civil Procedure. All disputes concerning discovery shall be brought to the  
24 attention of this Court no later than thirty days following the date upon which the event giving rise  
25 to the discovery dispute occurred. Counsel shall meet and confer pursuant to the requirements of  
26 Federal Rule of Civil Procedure 26 and Local Rule 26.1(a) before contacting the Court regarding  
27 discovery disputes.

28 7. All expert discovery shall be completed on or before **June 28, 2010.**

1           8. All motions, other than motions to amend or join parties, or motions in limine, shall  
2 be **FILED** on or before **August 2, 2010**.

3           Motions will not be heard or calendared unless counsel for the moving party has obtained a  
4 motion hearing date from the law clerk of the judge who will hear the motion. Be advised that the  
5 parties must file their moving papers within three days of receiving the motion hearing date from the  
6 Court. Be further advised that the period of time between the date you request a motion date and the  
7 hearing date may be up to three months. Please plan accordingly.

8           Briefs or memoranda in support of or in opposition to any pending motion shall not exceed  
9 25 pages in length without permission of the judge or magistrate judge who will hear the motion.  
10 No reply memorandum shall exceed 10 pages without leave of the judge or magistrate judge who  
11 will hear the motion.

12           Pursuant to Civil Local Rule 7.1(f)(3)(c), if an opposing party fails to file opposition papers  
13 in the time and manner required by Local Rule 7.1(e)(2), that failure may constitute a consent to the  
14 granting of a motion or other request for ruling by the court. Accordingly, all parties are ordered to  
15 abide by the terms of Local Rule 7.1(e)(2) or otherwise face the prospect of any pretrial motion  
16 being granted as an unopposed motion pursuant to Local Rule 7.1(f)(3)(c).

17           Should either party choose to file or oppose a motion for summary judgment or partial  
18 summary judgment, no Separate Statement of Disputed or Undisputed Facts is required.

19           9. Despite the requirements of Local Rule 16.1(f), neither party is required to file  
20 Memoranda of Contentions of Fact and Law at any time. The parties shall instead focus their efforts  
21 on drafting and submitting a proposed pretrial order by the time and date specified by Local Rule  
22 16.1(f)(6)(b).

23           10. All parties or their counsel shall fully comply with the Pretrial Disclosure  
24 requirements of Federal Rule of Civil Procedure 26(a)(3) on or before **November 15, 2010**. *Failure*  
25 *to comply with these disclosures requirements could result in evidence preclusion or other sanctions*  
26 *under Federal Rule of Civil Procedure 37.*

27           11. Counsel shall meet together and take the action required by Local Rule 16.1(f)(5) on  
28 or before **November 22, 2010**. At this meeting, counsel shall discuss and attempt to enter into

1 stipulations and agreements resulting in simplification of the triable issues. Counsel shall exchange  
2 copies and/or display all exhibits other than those to be used for impeachment. The exhibits shall be  
3 prepared in accordance with Local Rule 16.1 (f)(3)(c). Counsel shall note any objections they have  
4 to any other parties' Pretrial Disclosures under Federal Rule of Civil Procedure 26(a)(3). Counsel  
5 shall cooperate in the preparation of the proposed pretrial conference order.

6 12. The proposed final pretrial conference order, including objections any party has to  
7 any other parties' Rule 26(a)(3) Pretrial Disclosures shall be prepared, served and lodged with the  
8 Clerk of the Court on or before **November 29, 2010**, and shall be in the form prescribed in and in  
9 compliance with Local Rule 16.1 (f)(6). Counsel shall also bring a copy of the pretrial order to the  
10 pretrial conference for the Court.

11 13. The final pretrial conference shall be held before the **Honorable M. James Lorenz**,  
12 United States District Court Judge, on **December 6, 2010**, at **11:00 a.m.**

13 14. The dates and times set forth herein will not be further modified except for good  
14 cause shown.

15 15. Counsel for Plaintiff shall serve a copy of this order on any parties that enter this case  
16 hereafter.

17 DATED: August 26, 2009

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20 LOUISA S PORTER  
United States Magistrate Judge

21 cc: The Honorable M. James Lorenz  
22 All parties  
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